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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/609,280	06/27/2003	Jonathan N. Howarth	8568/7776	8295

7590

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EXAMINER

HOEY, BETSEY MORRISON

ART UNIT

PAPER NUMBER

1724

DATE MAILED: 10/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/609,280

Applicant(s)

HOWARTH ET AL.

Examiner

Betsey M. Hoey

Art Unit

1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-104 is/are pending in the application.
- 4a) Of the above claim(s) 93-98 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-4, 6-16, 18-28, 30-41 and 57-76 is/are allowed.
- 6) ☒ Claim(s) 5, 17, 29, 42, 56, 77-92 and 99-104 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-104 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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1. Claims 93-98 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 5, 17, 29, 42, 56, 77-85, 99, 100, 102 and 103 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,506,418 to McKinnie et al. McKinnie et al. teach bromine solutions produced by feeding Br<sub>2</sub> and/or Cl<sub>2</sub> into water. It is submitted that in a product claim, the method of arriving at the product does not patentably distinguish the product from a prior art product. It is also submitted that if the product of the prior art and the claims are not patentably distinguishable from one another, then the product of the instant claims and the product of the prior art are considered to have the same properties. It is further submitted that the product of McKinnie et al. is capable of being used for microbiological control of a water system. It is further submitted that McKinnie et al. is just one example of prior art bromine and bromine/chlorine solutions that anticipate the instant claims, as other prior art bromine and bromine/chlorine solutions are too numerous to list.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and


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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 86-92, 101 and 104 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,558,503 to Goodenough et al. Goodenough et al. disclose stable bromo-sulfamate compositions used for disinfection of water systems, which may comprise the addition of alkali metal or alkaline earth hydroxide. The claims differ from Goodenough by reciting that the composition is solid (claims 86, 101, 104). It is submitted that it is well-known in the art of disinfectants to dehydrate a composition in order to facilitate lighter transport and distribution of the disinfectant. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the present invention was made, to have provided the stable bromo-sulfamate of Goodenough et al. as a solid that may be hydrated.

6. Claims 1-4, 6-16, 18-28, 30-41 and 57-76 are allowed for the reasons set forth in the previous office action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Betsey Hoey whose telephone number is (571) 272-1158. The examiner's supervisor, Mr. Duane Smith, may be reached at (571) 272-1166. Any inquiry of general nature may be directed to the Group receptionist at (571) 272-0987. The centralized fax number for the Group is (571) 273-8300.

  
BETSEY MORRISON HOEY  
PRIMARY EXAMINER  
October 14, 2005